

Appl. No. 10/713,516
Amtd. dated June 21, 2005
Reply to Office action of March 21, 2005

REMARKS

Claims 1-28 were pending in this matter at the time of the Office action. As a result of this amendment, claims 1-2, 14-15, 19, 21, 23, 25 and 27-28 have been amended, and claim 12 has been canceled. No new matter has been added. The response below is made in view of the amended claims.

The applicant wishes to thank the Examiner for participating in the telephonic interview that took place on April 5, 2005. The comments provided during the interview assisted the applicant in preparing the response to this Office Action.

Allowable Subject Matter

The Applicant gratefully acknowledges the Examiner's determination that claim 26 is allowed and that claims 6, 8, 12, 13, 20, 21, and 24 contain allowable subject matter and would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims.

Claim Rejections -- 35 USC §112

The Examiner has rejected claims 14-16 under 35 USC §112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In response to this rejection, claim 14 has been amended in order to more particularly define the scope of the claim. Claims 15 and 16, which depend from claim 14, should also be considered with the amendment to claim 14.

In view of the at least foregoing, it is respectfully submitted that the claim rejections have been overcome. Applicant respectfully requests that the rejections be removed.

Claim Rejections -- 35 USC §102 and §103

The Examiner has rejected claims 1-3, 5, 17-19, and 25 under 35 USC §102(b) as being anticipated and claims 9-11 under 35 USC §103(a) as being unpatentable over Miller (GB 2,223,023). Applicant respectfully traverse the foregoing rejections in view of the above pending claims and for reasons set forth hereafter.

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The Examiner has indicated that Miller '023 provides a composition of matter comprised of SIS block copolymer, hydrocarbon resin and aromatic and/or chlorinated hydrocarbon solvent, wherein trichloroethylene is the chlorinated solvent. Independent claims 1 and 25 have been amended to recite that the solvent system including at least one chlorinated organic solvent is non-flammable. It is respectfully submitted that Miller '023 does not teach or suggest the invention of independent claims 1 and 25. In particular, Miller '023 does not teach or suggest a composition of a hydrocarbon resin, a rubber composition and a non-flammable solvent. Thus, the amendments to claims 1 and 25 should distinguish over Miller '023 and are now believed to be an allowable condition. Also, since dependent claims 2, 3, 5, 9-11 and 17-19 depend directly from claim 1, it is respectfully submitted that these dependent claims also define allowable subject matter as well.

The Examiner has rejected claims 1-5, 7, 17-19, 22, 23, and 25 under 35 USC §102(b) as being anticipated and claims 9-11, 27, and 28 under 35 USC §103(a) as being unpatentable over Gaveske (6,025,032). Applicant respectfully traverse the foregoing rejections in view of the above pending claims and for reasons set forth hereafter.

The Examiner indicated that Gaveske '032 provides a method and composition for waterproofing a substrate using a formulation comprised of a halogenated organic solvent such as methylene chloride, ethylene chloride, trichloroethylene and chlorobenzene, a hydrocarbon resin and a block copolymer. It is respectfully submitted that Gaveske '032 does not teach or suggest the invention of independent claims 1, 25, 27 and 28. In particular, Gaveske '032 does not teach or suggest a composition of a hydrocarbon resin, a rubber composition or a block copolymer and a non-flammable chlorinated solvent. Thus, the amendments to independent claims 1, 25, 27 and 28 should distinguish over Gaveske '032 and are now believed to be an allowable condition. Also, since dependent claims 2-5, 7, 9-11, 17-19, 22, and 23 depend directly from claim 1, it is respectfully submitted that these dependent claims also define allowable subject matter as well.

In view of the above, Applicant respectfully submits that claims 1-11, 13-28 are in condition for allowance. Prompt consideration of this application and allowance of these claims are requested. If the Examiner should have any questions regarding this application or the amendment, a call to Applicant's attorney would be appreciated.

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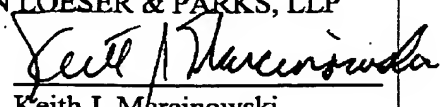
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Respectfully submitted,
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